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Laurent Frouin

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EXAMINER

NEURAUTER, GEORGE C

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/981,817	Applicant(s) FROUIN, LAURENT	
	Examiner George C. Neurauter, Jr.	Art Unit 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 11, 13-16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11, 13-16 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-4, 11, 13-16, and 20 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 May 2009 has been entered.

Response to Arguments

The Applicant's amendment and statement under 37 CFR 1.57(f) regarding the previously improperly incorporated subject matter is accepted by the Examiner. Therefore, the specification objection has been withdrawn. However, the Applicant's reply regarding the proper support under 35 USC 112, 1st paragraph, regarding the now properly incorporated by reference subject matter that is considered to be essential matter is inadequate. The Applicant has not provided a sufficient response that the US Patent now referenced contains the subject matter that is the subject of the 35 USC 112, 1st paragraph rejection. Therefore, this rejection is maintained.

Applicant's amendments regarding the 35 USC 112, 2nd paragraph rejections overcome these rejections, therefore, the rejections have been withdrawn.

The Applicant's arguments regarding "IRC-38" are not to be considered to be persuasive. "IRC-38" clearly teaches a distant communication node that receives seek

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signals in accordance with remote control instructions from local communication nodes. When the distant communication node determines that the incoming signal is recognized, it outputs the corresponding operating commands to a candidate host. If the incoming seek signal is not associated with any host, it is ignored and awaits another seek signal that may be recognized by the distant communication node. These steps disclosed in "IRC-38" are interpreted as reading upon the claimed invention in its broadest reasonable interpretation as required by MPEP 2111. Therefore, the claims are not in condition for allowance.

Claim Interpretation

The Examiner emphasizes for the record that the claims employ broad language including the use of words and phrases such as "node", "host", "subnetwork", "seek signal", "technical characteristics", and "operating commands", which have broad meanings in the art and have multiple embodiments and interpretations that extend well beyond the scope of the specification. In addition, the Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations.

Since the claims breadth allows multiple interpretations, meanings, and embodiments, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In*

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re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004).

Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003).

The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. Such broad interpretation is shown in the rejections listed below.

The elements “node”, “host”, “subnetwork”, “seek signal”, “technical characteristics”, and “operating commands” defined within the specification and recited in claims 1-4, 11, 13-16, and 20 will be given its broadest reasonable interpretation and

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will be interpreted by the Examiner that is consistent with the disclosures of the specification and the interpretation that those skilled in the art would reach. See MPEP § 2111.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4, 11, 13-16, and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-4, 11, 13-16, and 20 recite transmitting data between nodes on a sub-network. The specification describes a "packet switching device" or "switching means" in the sub-network to allegedly enable this transmission of data, however, this subject matter is not described in the specification in order to enable to one skilled in the art to make and/or use the invention without undue experimentation based on the improper incorporation by reference of this subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 11, 13-16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by "IRC-38 Infrared Receiver Product Information" ("IRC-38").

Regarding claim 1, "IRC-38" disclosed a method of managing a communication network comprising a sub-network having communication nodes interconnected by link conveying digital signals, and a plurality of hosts, said hosts being able to exchange data via the sub-network, said communication nodes comprising data and control interfaces for exchanging data and operating commands with hosts to which said communication nodes are connected, the method comprising the steps of:

transmitting a first seek signal from a local communication node to a distant communication node of the sub-network, said first seek signal containing information representing first technical characteristics of a host to be actuated, the transmission of the first seek signal being performed in accordance with instructions from a remote control; (page 1, specifically "The IRC-38 Infrared Receiver receives infrared codes from a source remote control...")

identifying a candidate host, that is connected to said distant communication node and that has technical characteristics compatible with the technical characteristics contained in the first seek signal; wherein, if said candidate host is not the host to be actuated, a second seek signal is transmitted from the local communication node, said second seek signal containing second technical characteristics, the transmission of the second seek signal being performed in accordance with instructions from a remote control, whereas, if said host is the host to be actuated, operating commands are sent

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to said candidate host by means of the control interface of the distant communication node. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it. For example, if it sees a Sony Power On...”)

Regarding claim 2, “IRC-38” disclosed the method according to claim 1, wherein if the data interface of the candidate host is adapted to exchange analogue data signals then during the step of identifying the candidate host, the compatibility of the technical characteristics contained in the first seek signal is determined with regard to the technical characteristics of the data interface of the candidate host. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.”)

Regarding claim 3, “IRC-38” disclosed the method according to claim 1, wherein the steps of transmitting and identifying are repeated until the identification of two hosts being the hosts to be actuated, in order to put said two hosts into communication. (page 1, specifically “Adaptable to almost any type of serial or TTL controllable device”)

Regarding claim 4, "IRC-38" disclosed the method according to claim 3, wherein the two hosts put into communication are connected to the same communication node. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output...you can use almost any remote to control it. For example, if it sees a Sony Power On....If it sees an NEC code structure...Adaptable to almost any type of serial or TTL controllable device")

Claim 11 is rejected since the claim recites a computer readable storage medium that contains substantially the same limitations as recited in claim 1.

Regarding claim 13, "IRC-38" disclosed a communication node that forms part of a communication network comprising a sub-network consisting of communication nodes interconnected by links conveying signals, and a plurality of hosts being able to exchange data via the sub-network, said node comprising:

Comparing means for comparing technical characteristics indicated in a received seek signal with technical characteristics of a host to which said node is connected; and a control interface that starts up and operates said host based on a comparison result by the comparing means, and that transmits the received seek signal once again on the sub-network when the comparing means determines that the technical characteristics indicated in the received seek signal are different from the technical characteristics of the host. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the

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shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.”)

Regarding claim 14, “IRC-38” disclosed a communication node according to Claim 13, further comprising:

at least one data interface for connecting a host to exchange analog signals and to receive operation commands from said control interface; and a unit for supplying said control interface with received signals which represent these operating commands. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.”)

Regarding claim 15, “IRC-38” disclosed a communication node that forms part of a communication network comprising a sub-network consisting of communication nodes interconnected by links conveying digital signals, and a plurality of hosts to exchange data via the sub-network, said node comprising:

Transmitting means for transmitting, to all nodes in the network, a seek signal containing information representing technical characteristics of a host to be actuated; determining means for determining when the seek signal is transmitted again on the sub-network; and sending means for sending operating commands to said host to be actuated when the seek signal is no longer transmitted again on the sub-network. (page

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1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.”)

Regarding claim 16, “IRC-38” disclosed a communication node according to Claim 15, further comprising:

at least one receiver to receive operating commands intended for said host to be actuated; and a unit to produce signals representing the operating commands. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...”)

Regarding claim 20, “IRC-38” disclosed a method for seeking an apparatus possessing predetermined technical characteristics by a communication apparatus, comprising:

a wireless receiving step of wirelessly receiving an instruction signal for instructing to seek an apparatus possessing the predetermined technical characteristics; and a seeking step of seeking an apparatus possessing the predetermined technical characteristics based on the received instruction signal. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to

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control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.”), wherein said seeking step comprises:

a requesting step of wirelessly sending a request to a distant apparatus to obtain information on a connected apparatus connected to said distant apparatus; and a step of continuing for an apparatus possessing the predetermined technical characteristics, based on a response to the request received from the distant apparatus. (page 1, specifically “The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it. For example, if it sees a Sony Power On...”)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571)272-3918. The examiner can normally be reached on the hours between 8:30am-5:00pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Tonia Dollinger, can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Neurauter, Jr./
Primary Examiner, Art Unit 2443